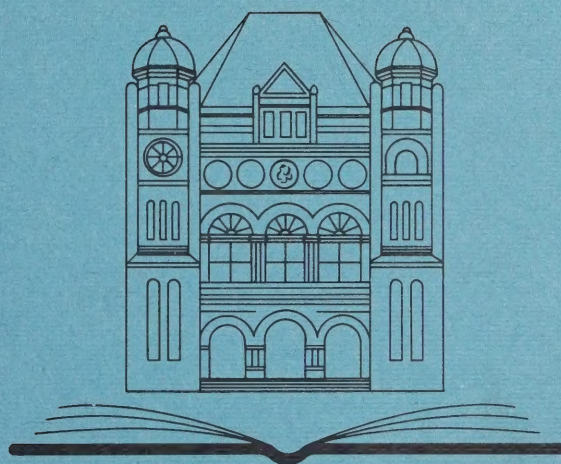


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**THE REGULATION AND PUBLIC FUNDING
OF PRIVATE SCHOOLS IN CANADA**

Current Issue Paper 140



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ISSN 0835-0299


**THE REGULATION AND PUBLIC FUNDING
OF PRIVATE SCHOOLS IN CANADA**

Current Issue Paper 140

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May 1993



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INTRODUCTION

Funding issues have dominated debate over private school education in Canada; regulatory issues, including concerns about the quality of education in private schools, have captured less public attention. That the two matters are closely related, however, is evident from a review of the legislation and policies governing private schools across the country. It is fair to say that the greater the public funding of such schools, the greater the degree of government regulation. Increasing enrollment in private schools and the continuing demand that these schools receive public funding may force the issue of regulation to greater prominence.

Currently, five provinces provide direct funding to private schools. In each of these provinces detailed legislation governs the establishment, operation and administration of the private schools. Each has a system of school accreditation regulating such matters as curriculum content, teacher qualification, student evaluation, inspections, length of school day and year, and record keeping. Three of the provinces require bonding of non-accredited schools to protect consumers (parents and students) against the financial failure of a school and the consequent non-delivery of pre-paid educational services.

By contrast, and with the exception of the Yukon, the non-funding jurisdictions have little, if any, regulation of private schools. None has a system of accreditation. For many of these jurisdictions, private schools operate and are formally recognized only as exceptions to compulsory public school attendance. As such, they are required to comply with various undefined standards of "equivalency" to public school education or of "satisfactory" or "efficient" instruction.

Enrollment in private schools across Canada continues to rise. Over the last twenty years, private school enrollment has increased 64% nationwide while enrollment in public schools over the same period has decreased by 15%.¹ At the present time, approximately 4.6% of the national student population attends private schools up from 2.4% in 1970.² This represents an increase in absolute terms of 91,000 students.

Based on these recent trends, enrollment in private schools is expected to increase by 3% while enrollment in public schools will increase by only 1%.³

This paper focuses on three important issues concerning private education in Canada. The first is the degree to which the provinces have attempted to guarantee the quality of education being offered by private schools. Each jurisdiction is examined as to the nature and extent of government regulation in setting standards for curriculum, evaluation of students, inspection of schools, teachers qualifications, length of school day and year, and reporting requirements.

Second, the financial failure of an independent school could mean losses for parents or guardians who have pre-paid tuition or registration fees. Unless specific statutory protections and remedies are in place, the only recourse available to a person for financial loss would be to bring a civil suit against a — likely insolvent — school operator. Furthermore, if a private school closes unexpectedly during the school year parents and students could be left scrambling to find other schools at which to complete the academic year. Statutory consumer protection provisions against these losses due to the financial failure or fraudulent operation of private schools are surveyed.

Finally, the public funding of private schools is discussed: an issue complicated by the status of Roman Catholic separate schools in each of the provinces. Ontario, Alberta, Saskatchewan, Quebec, Newfoundland, Yukon and the Northwest Territories include separate schools as part of their public education systems. Separate schools in British Columbia, Manitoba, New Brunswick, Prince Edward Island and Nova Scotia are treated as private schools.

Accompanying the text is a table which summarizes much of the information discussed in the paper.

ONTARIO

Ontario has an estimated 525 private schools with a total student enrollment of 72,100, representing 27% of the total private school student population in the country.⁴ These schools do not receive public funding and are essentially unregulated.

The *Education Act*, the general statute which governs all aspects of public school education in the province, refers only cursorily to private schools: of the more than 340 sections of the Act, only three apply to private schools.

The Act distinguishes between public and private schools by defining a "private school" as:

an institution at which instruction is provided at any time between the hours of 9 a.m. and 4 p.m. on any school day for five or more pupils who are of or over compulsory school age in any of the subjects of the elementary or secondary school courses of study and that is not a school as defined in this section.⁵

A "school" is defined to mean either a public or separate school.⁶

Under s. 21, the compulsory school attendance section, every school-age child is required to attend an elementary or secondary school, unless otherwise excused in accordance with the Act. Attendance is excused when a child is receiving "satisfactory instruction" at home or elsewhere.⁷ "Satisfactory instruction" is nowhere defined in the Act or regulations. The result, according to the 1985 Commission on Private Schools in Ontario, is that "the standard [of instruction] is empty of content and, therefore, unenforceable"⁸

The only other section in the Act to refer to private schools imposes several minor operational constraints. Section 16 requires every operator of a private school to file a "notice of intention to operate" with the Ministry of Education. The notice must be

filed annually on or before September 12. Once established, a private school is required to file statistical information regarding enrollment, staff, courses of study and such other matters as the Minister may require from time to time.⁹

The Minister may inspect a private school and any relevant records or documents. In practice, inspections of private elementary schools are rarely undertaken, except on a complaint basis.¹⁰ Private secondary schools are inspected more routinely because these schools wish to offer credit courses leading to the Ontario secondary school diploma.¹¹ At the request of the school operator and for a nominal fee, the Minister will inspect a private school in respect of the standard of instruction in the subjects leading to the Ontario secondary school diploma, the secondary school graduation diploma and the secondary school honour graduation diploma.¹²

The foregoing provisions constitute the full extent of the regulation of private schools in Ontario. At present, there are no minimum standards applicable to private schools in respect of the curriculum; teacher qualifications; student achievement or evaluation (except in relation to the granting of the secondary school diploma); or the length of the school day or year.

Funding

Private schools in Ontario do not receive any direct public funding. Limited financial assistance is provided, however, in the form of books and services. The Ministry provides private schools with free curriculum guidelines, resource materials and access to the Book Purchase Plan. Only nominal fees are charged for inspections and the use of the Student Guidance Information Service. Non-profit private schools are exempted from retail sales tax on school supplies and equipment.¹³

In 1985, the government extended public funding to separate school grades 11 through 13. As a result, the province now has a fully funded public and separate school education system.

The government's decision to extend full funding to Roman Catholic elementary and secondary schools while not providing any financial assistance to other denominational schools was recently challenged as being a violation of the constitutionally guaranteed freedom of religion and right to equality. In *Adler v. Ontario*,¹⁴ the Ontario Court (General Division) considered two separate applications on this issue. The first application was brought by the parents of children attending Jewish day schools; the second, by the Ontario Alliance of Christian School Societies. Both applications asked the Court to declare that the non-funding of these schools infringed their rights to equality and freedom of religion under the Canadian *Charter of Rights and Freedoms*.¹⁵ Both applications were dismissed.

As a starting point, the Court held that the funding of Roman Catholic schools in Ontario was not a consideration relevant to the determination of the issues in the case. Such funding was a constitutional anomaly, rooted in the historical and political compromises which led to Confederation in 1867.

On the *Charter* arguments, the Court agreed that the applicants' rights to equal benefit of the law and to freedom of religion were violated by the non-funding of their schools and by the additional financial burden imposed on the applicants of having to support the public system through taxation. Nevertheless, the offending legislation was found to be constitutionally valid because the non-funding of private schools constituted a reasonable limit on those rights. According to the Court, the legislative objectives of the Ontario *Education Act*, which include the provision of a tuition-free, secular, public education, universally accessible to all Ontario residents, and a public education system which fosters and promotes the values of a pluralist, democratic society, were of sufficient importance to warrant overriding the constitutionally protected rights.¹⁶ Funding only public education, the Court reasoned, and withholding funding from private schools whatever their denomination, was rationally connected to these objectives and impaired as little as possible the rights of freedom of religion and equality.¹⁷ The decision is under appeal.

Consumer Protection

There are no consumer protection provisions directed specifically at protecting private school students, parents or teachers against financial or academic loss due to the abrupt and premature closing of a private school.¹⁸ At the present time, the only remedy available is for each person who has suffered a loss to bring a civil action against the — likely insolvent — school operator. In the last five years approximately 61 private schools have closed in Ontario.¹⁹

Another concern that has been identified and for which there is currently no protection, is the problem of commercial day-care centres operating under the guise of "private schools" to avoid public regulation and scrutiny. As "schools" the centres are not subject to the *Day Nurseries Act* which strictly regulates the operation of day nurseries; as "private" schools their students and parents do not have the protection of the *Education Act* or of regular inspections from the Ministry of Education. The sheltering of what are in essence commercial day-care centres under the guise of "private schools" means that these centres are without regulation.²⁰ This issue has been considered by an inter-ministerial committee composed of representatives from the Ministries of Health, Education and Community and Social Services and recommendations to solve this problem are under consideration.²¹

BRITISH COLUMBIA

British Columbia is one of only two provinces that has specific legislation governing private schools. The *Independent School Act*,²² which was substantially revised in 1989, regulates the operation and funding of the province's 300 "independent schools" with their approximate total enrollment of 46,000.²³ Roman Catholic schools are included in the category of independent schools in British Columbia.

The Act provides for the appointment of an "inspector of independent schools" to administer the statute and regulations.²⁴ An "independent school" is defined as a school that is maintained and operated in the province by an authority (i.e., a society

incorporated under the *Society Act*, a corporation incorporated under the *Company Act* or a person designated as such by legislation) and offers an educational program to ten or more school-age (ages five to 18, inclusive) students, but does not include,

- (a) a public school or Provincial school, or
- (b) a school that
 - (i) solely offers religious instruction,
 - (ii) solely offers language instruction,
 - (iii) solely offers a program of social or cultural activities,
 - (iv) solely offers a program of recreational or athletic activities, or
 - (v) is so designated by the inspector.²⁵

Independent schools are classified into one of five groups based on criteria set out in the Schedule to the Act. The classification determines a school's funding entitlement and the degree of government regulation of its operation. It is illegal for an independent school to operate without a certificate of group classification.²⁶

British Columbia has three classifications of "accredited" schools, and two classifications of "registered" schools.²⁷ Accreditation involves departmental sanction of the school's program; registration simply recognizes the existence of the school.²⁸

Accredited schools are composed of three groups:

- Group 1 refers primarily to Roman Catholic schools; the largest category of independent schools in British Columbia, they receive 50% of the per-student operating cost of the public school district in which they are located.
- Group 2 includes special education schools, small schools with low pupil-teacher ratios, and traditional English-model private schools. These schools receive 35% of the public school per-student operating cost.
- Group 4 schools cater mainly to foreign and out-of-province students and receive no funding.

The registered schools, represented by groups 3 and 5, are primarily independent schools affiliated to minority religious organizations:

- Group 3 receives 10% funding.
- Group 5, which receives no funding, is made up of new private schools in their first year of operation or denominational schools that do not want government funding or involvement.²⁹

During the first year of operation a new private school is classified as either group 4 or 5 and is ineligible for provincial funding. After the first year of operation, a group 5 school may apply for a funded classification.³⁰

A basic requirement for certification which is applicable to all of the groups is that

- (a) no program is in existence or is proposed at the independent school that would, in theory or in practice, promote or foster doctrines of
 - (i) racial or ethnic superiority or persecution,
 - (ii) religious intolerance or persecution,
 - (iii) social change through violent action, or
 - (iv) sedition,
- (b) the independent school facilities comply with the enactments of British Columbia and the municipality or regional district in which the facilities are located, and
- (c) the authority complies with this Act and the regulations.³¹

In addition, each of the five groups is distinguished by certain criteria which must be met in order to qualify for classification. These requirements are summarized under the various headings below.

Curriculum and Evaluation of Students

Accredited schools (i.e., groups 1, 2 and 4), must satisfy the inspector that

- (a) the school will establish an educational program for the current year that complies with the instructional time and program requirements determined by the Minister; and
- (b) the school has established an evaluation program that
 - (i) demonstrates student progress in achieving intellectual, human, social and career development, and
 - (ii) includes provincial assessment and examination programs.³²

The accredited schools are required to meet all provincial curriculum goals and to allocate at least 80% of their instructional time to the core subjects: english, social studies, mathematics and science. In grades 11 and 12 the schools must also offer a program that will lead to graduation in grade 12. Like their counterparts in the public schools, all students in the accredited schools must take the provincial examinations in the grade 12 examinable subjects (these examinations count for 40% of their final mark).³³

Accredited schools are also required to participate in provincial assessment programs designed to test the effectiveness of the curriculum in achieving the provincial goals.³⁴

By contrast, registered schools (i.e., group classifications 3 and 5) are not obliged to offer curricula consistent with the provincial curriculum goals.³⁵

Inspection, Evaluation and Supervision of Schools

The inspector of independent schools is authorized to inspect and evaluate independent schools, teachers, the operations of an independent school authority, educational programs and resource materials, and school buildings. In addition, the Act provides for the establishment of "external evaluation committees" to issue or renew certificates of group classification and to inspect and evaluate independent schools.³⁶ The provincial Department of Education has set province-wide criteria for such inspections and evaluations. Accredited schools (groups 1, 2 and 4) must undergo an initial external evaluation at the time of certification and thereafter be evaluated at least once every four years. They must be inspected (a less onerous assessment) at least once every two years.³⁷

The two classifications of registered independent schools are required to undergo an initial inspection on certification and thereafter to be inspected at least once every two years.³⁸

Teacher Qualifications

All teachers employed by schools in groups 1 and 2 and 80% of those in group 4 (the accredited schools) must be certified either by the College of Teachers or by the inspector of independent schools.

Teachers in school classifications 3 and 5 (the registered schools) are not required to be certified.³⁹

Reports, Statements and Records

The Act stipulates that an independent school authority shall submit to the inspector,

- (a) all reports and statements in the forms and at the terms the inspector requires, and

- (b) on the closure of a school, such records as the inspector may require.

On registration, all independent schools must complete forms providing information on the school, enrollment and teachers. Funded schools must also submit an annual audit.⁴⁰

School Year and Day

There is no regulation specifying the length of the school year and day for all independent schools in the province.⁴¹ However, funding for schools eligible to receive operating grants (groups 1, 2 and 3)⁴² is based on the number of "qualifying students" enrolled at the school. A qualifying student is defined as a person of school age who is enrolled for at least 135 school days between July 1 and May 15. In addition, accredited schools (groups 1, 2 and 4) are required to offer a curriculum that will meet at least 80% of the provincial curriculum goals and allocate institutional time to english, social studies, mathematics and science equal to at least to 80% of what public schools are required to allocate. In practice, therefore, schools in groups 1, 2, 3 and 4 generally do operate for the same number of days as the public schools, that is, 190 institutional days between July 1 and June 30.⁴³

Funding

To reiterate: independent schools in three of the five group classifications are eligible for public funding. Schools in groups 1, 2 and 3 are funded; schools in groups 4 and 5 are not.

The amount of funding depends on group classification: group 1 receives 50% of the per-student operating cost in the public district in which the schools are located; group 2 receives 35%; and, group 3 receives 10%. Funded schools must be operated by a non-profit authority; at least 50% of their enrolled students must be fully or partially "qualified" (i.e., attend a prescribed minimum number of days); have operated for at

least one year; and their facilities must be adequate for instructional purposes. Additional eligibility requirements are specified for each of the three funded classifications. For example, group 1 and 2 schools must employ certified teachers only and must offer programs that are consistent with the goals of the provincial curriculum.⁴⁴

Consumer Protection

Currently, only group 4 schools (catering mainly to foreign and out-of-province students) are required as a condition of their classification to post a security bond.⁴⁵ The amount of the bond is equal to the fees collected from 50% of the enrolled students from the previous year. If the school was not open in the previous year, then the bond shall be not less than \$75,000 or an amount fixed by the inspector.⁴⁶

The purpose of the bond is to furnish:

- (a) the prorated repayment of any fees and the reimbursement of any expenses for which the authority becomes liable to any person by reason of its cancellation of an education program or of an admission to an independent school granted a certificate of group 4 classification, and
- (b) the payment of any damages for which the authority becomes liable to any person by reason of its failure to provide a service that, in an undertaking, advertisement or oral or written representation, it stated would be provided to students in the independent school granted a certificate of group 4 classification.⁴⁷

ALBERTA

Alberta's 180 private schools (separate schools are part of the public education system) have an estimated total enrollment of 17,400.⁴⁸ They are regulated by the general education legislation, the *School Act*,⁴⁹ which was substantially revised in

1988. The Department of Education administers the Act and establishes general policies for private schools in accordance with the statute and regulations.

At a minimum, private schools in Alberta must be "registered." If they meet additional requirements the schools may be "accredited".⁵⁰ Registered private schools do not receive public funding; accredited private schools are funded.⁵¹

Curriculum and Evaluation of Students

The *School Act* authorizes the Minister to:

- (a) prescribe courses of study, including the amount of instructional time, and to authorize education programs and instructional materials for use in schools;
- (b) approve any course, education program or instructional material that is submitted to the Minister by a board or another operator of a school for use in schools;
- (c) subject to the right of a board to provide religious instruction, prohibit the use of a course, education program or instructional materials in schools;
- (d) adopt or approve goals and standards applicable to the provision of education in Alberta.⁵²

Generally, subsections (c) and (d) apply to all schools in the province, both public and private; (a) or (b) refers to accredited schools; and (a) refers to public schools.⁵³

Registered schools are required to submit "a proposed list of subjects to be taught and an outline of the major skills and knowledge areas to be learned" at the time of registration.⁵⁴ Entitlement to registration depends on whether the school offers a program of studies that complies with that prescribed by the Minister; meets standards of student achievement and testing; agrees to regular evaluation and monitoring; and meets all provincial health and safety and building standards.

Accredited schools must have their education programs approved by the Minister.⁵⁵ Such approval depends on the equivalency of the proposed curriculum to that offered in the public school system.⁵⁶ A further condition of accreditation is to "develop and maintain policies regarding the evaluation of students, teachers, programs and the school consistent with those of the Minister."⁵⁷

Public and accredited private school students who wish to graduate from high school with Grade 12 standing must write provincial examinations. Although students in registered schools are not eligible to write these examinations, students 19 years of age or older who have been out of school for eight consecutive months (mature students) may do so.⁵⁸

Inspection, Evaluation and Supervision of Schools

The *School Act* authorizes the Minister to conduct inspections and evaluations of public and private schools, teachers, education programs, instructional materials and school buildings.⁵⁹ Alberta distinguishes in the same way as does British Columbia between inspections and evaluations. Every private school (accredited or registered) is inspected at least once a year; accredited schools are also evaluated once every five years.⁶⁰

Teacher Qualifications

Although teachers employed by registered private schools need not be certified or approved by the Minister, the school must submit to the Minister the qualifications of the proposed instructional staff at the time of registrations.⁶¹

Accredited private schools must employ teachers whose qualifications are approved by the Minister. Usually this means that the teachers must be provincially certified.⁶²

Reports, Statements and Records

Each year every private school must submit a "notice of intention to operate a private school," statistical information on student enrollment and the names and qualifications of its teaching staff. Records of student enrollment and attendance must also be maintained.⁶³ Accredited schools must submit, in addition, an annual audited financial statement for the previous fiscal year and a budget for the current fiscal year.⁶⁴

School Year and Day

There are no regulations requiring either registered or accredited private schools to operate a certain number of days each year. However in order to comply with provincial curriculum requirements, accredited schools, like public schools, must provide a minimum of 950 instructional hours per year at the junior level and 1,000 instructional hours per year at the senior high level.⁶⁵

Funding

Alberta has a publicly funded school system consisting of public and separate schools. Registered private schools receive no public funding. Accredited private schools are eligible to receive approximately 75% of the per-pupil grant to public schools.⁶⁶ As a result, slightly more than one-third of their revenue is received from the province.⁶⁷

Consumer Protection

The *School Act* provides some measure of protection in respect of both the quality of private school education and the financial viability of the school operator. The Act expressly authorizes the Minister to cancel or suspend the registration or accreditation of a private school and thereby terminate its operation

- (a) if the operator of the school does not comply with the requirements of registration and accreditation; or
- (b) if, in the opinion of the Minister, the students are not achieving acceptable educational progress.⁶⁸

Registered schools must notify in writing the parent of a prospective student,

- (a) that a student who attends the school may not necessarily be placed at the same grade level if the student registers in another school;
- (b) that the school cannot grant credit for senior high school courses taken at the school;
- (c) of the general liability insurance coverage held by the operator in the event of accident or death; and
- (d) of the qualifications of the instructional staff.⁶⁹

Accredited private schools must maintain a fidelity bond in an amount acceptable to the Minister.⁷⁰ The purpose of the bond is to protect against the fraudulent use of tuition fees and government grants; it is not clear whether the bond proceeds would be available to reimburse parents or students for financial loss in the event of the premature closing of the school.⁷¹ Registered private schools are not required to post a bond.

SASKATCHEWAN

Private schools in Saskatchewan are regulated under the general legislation governing public schools. The *Education Act* and its regulations were recently revised to address more directly the regulation of "independent schools" (private schools).⁷² An Independent Schools Branch was established within the Department of Education to assist in the administration of the Act and regulations. There are 52 independent

schools operating in Saskatchewan with an approximate enrollment of 3,050.⁷³

Roman Catholic schools form part of the public education system.

An "independent school" is defined as an institution that provides instruction to compulsory school-age pupils but which is neither controlled nor administered by a public authority.⁷⁴ The Act distinguishes four categories of independent schools:

- Registered independent schools — as a minimum, all independent schools must be registered.⁷⁵ All such schools must meet safety, health and construction standards. These schools receive no public funding and few curriculum and staff conditions are imposed by the legislation.⁷⁶
- Accredited independent schools — registered independent schools may apply to become accredited. These schools must adhere to provincial curriculum, staff standards and education goals but receive no public funding.⁷⁷ At the present time there are no accredited schools.⁷⁸
- Historical high schools — there are eight historical high schools which were established in the early 1900s and were among the first high schools in some parts of the province at a time when public high schools were not available.⁷⁹ The historical high schools have not been incorporated into the public system and are deemed to be "registered" under the Act. However, like accredited schools they must conform to provincial standards in education. The historical high schools receive public funding.
- Alternative independent schools — these schools provide education programs to students with special needs. They too receive public funding.⁸⁰

Curriculum and Evaluation of Students

Although registered independent schools are not required to comply with all provincial standards for public schools, they must provide instruction in required areas of study comparable in quality to that of public schools. Other programs and courses offered by such schools may be submitted to the Minister for approval; if approved, secondary school courses will qualify as credits for graduation.

Both the accredited independent schools and the historical high schools are required to conform to the provincial curriculum policy and to provide approved programs and

courses.⁸¹ Students attending these schools must write the same provincial departmental examinations as public school students.⁸²

Alternative independent schools similarly must adhere to the provincial curriculum with respect to alternative education, and must offer approved programs and courses in accordance with the provincial curriculum policy.⁸³

Inspection, Evaluation and Supervision of Schools

All categories of independent schools are inspected regularly by qualified inspectors who report on school facilities; educational activities and operations; and the records which relate to such activities and operations.⁸⁴

Teacher Qualifications

Registered independent schools may employ teachers who are either certified or who hold a "letter of eligibility" from the Minister. There are no minimum requirements for a letter of eligibility.⁸⁵

Accredited, alternative independent and the historical high schools must employ only certified teachers.⁸⁶

Reports, Statements and Records

All categories of independent schools must maintain pupil records relating to educational activities and operations, and must file an annual return based on these records.⁸⁷

School Year and Day

The regulations require all categories of independent schools to have a school year and hours of instruction that are consistent with provincial requirements for public schools.⁸⁸

Funding

Saskatchewan has a publicly funded education system consisting of public and separate schools.

Public funding for independent schools is provided to only two of the four categories: the alternative independent schools and the historical high schools.⁸⁹ Per-pupil grants to the historical high schools equal about two-thirds of the support for public high schools. Elementary independent schools receive no provincial support.⁹⁰ Funding to the alternative schools is at a rate based on the severity of students' special needs.⁹¹

Consumer Protection

Regulations contain a procedure for the closure of independent schools, including a requirement that school operators consult with parents in respect of educational services for the students.⁹²

There are no bonding provisions requiring schools to post security for pre-paid fees. The province's most recent experience with the closing of an independent school was in 1991. Parents were not reimbursed for fees.⁹³

The Minister has the authority to cancel or suspend an independent school's certificate of registration "if it is not in the public interest" that the school remain certified.⁹⁴

MANITOBA

Manitoba's *Education Administration Act* defines a "private school" as any school, other than a public school, that provides a curriculum and a standard of education equivalent to that provided by the public schools, but does not include any home or place where home-schooling is carried on.⁹⁵ There are approximately 95 private schools in Manitoba, including the province's 18 Roman Catholic schools.⁹⁶ Total estimated enrollment is 11,500.⁹⁷

Manitoba distinguishes two types of private schools: funded and non-funded. Currently, 53 private schools receive public funding and the remainder do not.⁹⁸ For a school to be eligible for public funding the Minister must be satisfied that the school teaches a sufficient number of approved courses to ensure that the students receive an education of a standard equivalent to that received by students in the public school system; that it employs certified teachers (subject to the proportional funding formula for non-certified teachers); that the school's core curriculum has been approved by the Department; that the school has an incorporated Board of Directors and an elected advisory board with parent representation; that the school has been in operation for at least three years; and that an auditor is appointed annually.⁹⁹ In other words, funded private schools must comply with provincial goals and standards for education and more particularly with the requirements of the *Public Schools Act* and its regulations.¹⁰⁰ There is no obligation on non-funded schools to meet any of these requirements. While the Department of Education maintains a registry of all private schools, registration is required only to ensure exemption from municipal property taxation.¹⁰¹ Non-funded schools therefore exist in a regulatory vacuum.¹⁰²

Curriculum and Evaluation of Students

There are no regulations or requirements respecting non-funded private schools.¹⁰³

Because funding implies accreditation, to be eligible for public funding, a private school must, among other things, satisfy the Minister that it is teaching

a sufficient number of courses approved under the *Education Administration Act* to ensure that children enrolled in the private school receive an education of a standard equivalent to that received by children in public schools.¹⁰⁴

The school's core curriculum must be approved by the Department, and the school must adhere to the provincial goals of learning and curriculum guidelines.¹⁰⁵

The Minister may prescribe the standard to be attained by pupils on entering or leaving any grade or level.¹⁰⁶

Inspection, Evaluation and Supervision

Both funded and non-funded private schools are inspected by the Department on a regular basis, although there are no legal or regulatory requirements for the regularity or timing of the visits.

Teacher Qualifications

Funded private schools must ensure that the teachers who are teaching approved courses hold valid teaching certificates. There is, however, some flexibility in this area. Provincial funding is given to a private school in proportion to the number of certified teachers employed by the school. Thus, the funding formula provides a monetary incentive, but not an absolute requirement to employ only certified teachers.¹⁰⁷

Reports, Statements and Records

Private schools are required to file annual statistical reports with the Department.¹⁰⁸ Funded schools, in addition, must file annual audited financial statements of the financial affairs, books, records, accounts and transactions of the private school with the Minister.¹⁰⁹

School Year and Day

There are no regulations governing non-funded private schools. Funded schools are required to comply with the provincial hours of instruction set out in the Time Allotments section of the Administration Handbook for Manitoba Schools, or have their funding reduced accordingly.¹¹⁰

Funding

Private schools, including Roman Catholic and other religious schools, are eligible for funding if they "qualify" by meeting the requirements of the Act and regulations.

In 1990, Manitoba announced that it would gradually increase funding to private schools over the next eight years to reach a maximum level of 80% of the per-pupil grant to public schools. Commencing in July 1991 private schools were given 59% of the per-student grant to public schools. The amount was increased in 1992 to 63.5%, to 68% in 1993, and from 1994 to 1997 will be increased annually by 3% to a maximum of 80% of the public school grant by 1998.¹¹¹

The government also provides a grant of \$40 per-pupil per year for print and non-print institutional material.¹¹² Special-needs grants for physically and mentally handicapped children are provided to private schools in the same manner as to public schools.¹¹³

Consumer Protection

Neither funded nor non-funded private schools are required to post security to protect parents and students against premature closing. It has been suggested that the increased public funding of private schools would in effect eliminate the likelihood of premature closings of private schools.¹¹⁴ At the Minister's discretion or on request from a private school, the Ministry can inquire into the qualifications of the teachers, the standard of education or into any other matter relating to the welfare of the public enrolled at the private school.¹¹⁵

QUEBEC

Quebec and British Columbia are the only jurisdictions in Canada to have distinct legislation regulating the establishment and operation of private schools. This may be explained in part by the fact that approximately 43% of the nation's private school students are enrolled in private schools in Quebec.¹¹⁶ Currently there are over 100,000 students attending the province's 300 private schools.¹¹⁷ Roman Catholic schools form part of the publicly funded education system.

Quebec first enacted legislation specifically regulating private schools in 1968.¹¹⁸ In December 1992, this legislation was replaced with a completely revised statute entitled *An Act respecting private education*.¹¹⁹ To ensure ease of transition, several of the administrative sections of the new Act have already been proclaimed, although most of the provisions are to come into force on July 1, 1993.¹²⁰ The primary innovations of the legislation are a simplified categorization of private schools and a system of accreditation for the purpose of funding.

The Act will apply across the province to every private educational institution which offers any of the following educational services: preschool developmental and pre-cognitive learning, elementary school education, secondary school general or vocational education, secondary-level adult education, general or vocational education

at the college level or supplementary vocational training in fields specified by regulation.¹²¹

The Minister of Education and the Minister of Higher Education and Science will administer the legislation in consultation with the already well-established *Commission consultative de l'enseignement privé* (Private Education Advisory Commission).¹²²

Under the legislation, every private educational institution will be required to obtain a permit-to-operate issued by the Minister of Education in consultation with the Commission.¹²³ The permit authorizes the school to provide specified types of education. Operation of a private school without such a permit constitutes an offence, punishable on conviction by a fine of \$500 to \$5,000 or, in the case of a corporation, of \$100 to \$10,000.¹²⁴ A permit may be refused, revoked or modified if the requirements of the legislation are not being met on an ongoing basis.¹²⁵

The new Act also creates a system of accreditation for the purpose of receiving public subsidies.¹²⁶ Upon application, accreditation may be granted to a private educational institution by the Minister, after consultation with the Commission, taking into account, among other things, the following criteria:

- the quality of the institution's educational organization and the criteria governing the selection of the teaching and managerial personnel; and
- the compatibility between the institution's objectives and the policies of the Minister or the government.¹²⁷

Accreditation entitles the institution to receive public funding based on a formula set out in the legislation. If a school is not accredited it is ineligible for public funding.

Curriculum and Evaluation of Students

All private educational institutions that offer instruction in preschool, elementary or secondary school education, whether accredited or not, are subject to the same "basic

school regulation" that is prescribed under the *Education Act* for public school boards in all matters concerning:

- subjects to be taught;
- admission, enrollment and school attendance, including rules governing promotion from one level of instruction to another;
- school calendar and prescribed time;
- student achievement evaluation and certification of studies; and
- diplomas, certificates and the conditions governing their issue.¹²⁸

In addition, private educational institutions must follow the same compulsory studies program for elementary and secondary school as are prescribed under the *Education Act* for public schools.¹²⁹ With the Minister's authorization, a private school may replace the program of studies established by the Act with one developed by the institution. Private schools must use the approved textbooks and instructional materials for teaching required programs.¹³⁰

A private educational institution of a religious affiliation other than Catholic or Protestant may create its own program of studies in moral and religious instruction. However, it must include the objectives and mandatory content of the program of studies in moral instruction established by the Minister.¹³¹

Examinations in prescribed subjects are set by the Minister and must be administered by the private schools.¹³²

Inspection, Evaluation and Supervision of Schools

Under the new Act, the Minister's designates may inquire into any matter relating to the quality of educational services or to the administration, organization or operation of a private educational institution. In addition, to ensure compliance generally with the Act, the Minister may enter the facilities of an institution at any reasonable time,

examine and make copies of any register or document relating to the activities governed by the legislation and require the production of any information or document relating to the application of the Act.¹³³

Teacher Qualifications

Private schools in Quebec must employ teachers licensed by the Minister of Education, although the Minister may authorize exceptions to this requirement from time to time.¹³⁴

Reports, Statements and Records

Every private educational institution must maintain a school record, a register and an attendance record for each pupil; provide such information and documents as may be required; and file annual financial statements.¹³⁵ Accredited institutions, in addition, must appoint an independent auditor to produce an annual audited report of the financial operations of the school. This report must be forwarded to the Minister along with the annual financial statements.¹³⁶

School Year and Day

The school year is defined in the Act to mean the period beginning July 1 and ending June 30 the following year.¹³⁷ The Act further provides that school attendance for private educational institutions shall be the same as that prescribed for public schools under the *Education Act*.¹³⁸

Funding

The province has funded certain categories of private schools since 1968. The new legislation continues this policy, although the categories eligible for funding have been streamlined into one: accredited schools. Private educational institutions which have not received accreditation are ineligible for public funding. Currently, 33% of the

province's private preschools, 50% of elementary and 90% of secondary schools are eligible to receive funding.¹³⁹

The amount of the subsidy for private educational institutions varies from year to year based on a formula described in the Act. In particular, accredited schools are eligible to receive a base amount per-student and an amount "in lieu of the rental value of the institution's facilities."¹⁴⁰

The base amount for the current year is calculated using the base amount per-student fixed for the preceding year to which is added the variation rate in the subsidy to be granted to the public schools for the current year, except for amounts paid for expenses peculiar to the operation of the public education system.¹⁴¹ In this way, the subsidies given to private schools will always be related to the funding provided to public schools; the rate of increase or decrease will be the same.

The amount for rental facilities is calculated as a provincial average and is paid to cover such costs as capital goods, equipment and supplies.

At the present time, funding levels for accredited schools are approximately 61% of public school funding. Per-student subsidies are as follows:

- | | | |
|---|------------|----------|
| • | preschool | \$1,660 |
| • | elementary | \$2,365 |
| • | secondary | \$3,379. |

Per-student rates paid to private schools providing special education (handicapped and learning disabled) range from \$11,703 to \$17,700.¹⁴²

Consumer Protection

Quebec's new legislation provides consumer protection for students attending private schools and their parents in four areas: rules governing the cancellation and repayment of fees under the educational service contract; financial resource requirements; bonding for non-accredited (i.e., non-funded) private educational institutions; and advertising and solicitation restrictions.

Educational Service Contract

The statute recognizes an "educational services contract" and attaches specific terms and conditions to it which cannot be waived by the parties to the contract.¹⁴³ These provisions include:

- the contract must be in writing and must otherwise comply with the regulations;
- fees charged by a private educational institution to determine a student's admissibility may not exceed the prescribed amount;
- enrollment fees must remain the same for the duration of the contract;
- institutions may require payment only of a prescribed portion of admission or enrollment fees in advance of educational services actually being provided;
- payment of fees cannot be required in less than two reasonably equal instalments;
- no accredited institution may charge fees for admission, enrollment or other services in excess of the prescribed amount.
- an educational services contract may be cancelled at any time by the consumer on written notice to the operator. The Act sets out the formula for determining the amount of the required refund based on how much of the contract has been performed. In all cases, refunds must be made within 10 days of cancellation.

Permit Requirements

Every private educational institution must hold a permit-to-operate issued by the Minister. To qualify for a permit the institution must first satisfy the Minister that it will have at its disposal adequate material, human, and financial resources for dispensing educational services.¹⁴⁴ The permit may be revoked or modified if the institution fails to meet the conditions for issuance and renewal of the permit; if it no longer has at its disposal the required human or material resources for dispensing the educational services for which it was issued the permit; fails to maintain the prescribed security for performance of its contractual obligations; or is or is about to become insolvent.¹⁴⁵

Bonding for Non-Accredited Institutions

All non-accredited (i.e., non-funded) private educational institutions must furnish security to guarantee performance of their obligations under the educational services contract.

Advertising and Solicitation

Every private educational institution must comply with the regulations concerning advertising, solicitation and offers of service.¹⁴⁶

NEW BRUNSWICK

New Brunswick's 30 private schools with an estimated total enrollment of 950 students¹⁴⁷ operate independently of the Department of Education. Most of these schools are affiliated with religious groups. They receive no public funding and are subject to little regulation.

The *Schools Act* refers indirectly to private schools in its compulsory school attendance provisions. An exemption to the requirement to attend school is permitted

where the Minister is satisfied that the child (between the ages of seven and 15) is under "efficient instruction" elsewhere.¹⁴⁸ Parents wishing to send their children to private school must apply annually to be exempted from compulsory attendance at public school.

Inspection, Evaluation and Supervision of Schools

The authority to inspect private schools operating in the province arises indirectly from the authority to grant an exemption to compulsory attendance. In order to make an assessment of whether a particular school is providing "efficient instruction," the Department of Education conducts annual inspections using criteria developed by the Department. To date no private school has failed to meet the standard of providing "efficient instruction."¹⁴⁹

Funding

New Brunswick has a nonsectarian, publicly funded school system. Private schools receive no public funding.¹⁵⁰

Consumer Protection

There are no consumer protection provisions relating to the closure of private schools.¹⁵¹

PRINCE EDWARD ISLAND

Prince Edward Island's two private schools, with a combined enrollment of 150 students, are not publicly funded. However, they are regulated to a certain extent under the "efficient instruction" exemption to the compulsory attendance provisions of the province's *Schools Act*.¹⁵²

This Act, like those in several other jurisdictions, exempts school-age children from attending public school if they are receiving "efficient instruction" elsewhere.¹⁵³ To meet this standard, a private school must adhere to the *Private School Guidelines* developed by the Department of Education. Failure to comply with the provisions of the *Guidelines* may result in a declaration by the Minister that the school is not providing efficient instruction and a direction that its students attend public school.¹⁵⁴

The *Private School Guidelines* require that authorization to establish a private school must first be obtained from the Minister. Approval is in fact granted by the Executive Council.¹⁵⁵ Operators must submit a plan for the operation of the school including an outline of goals, course outline by grade and staffing plans.¹⁵⁶

Curriculum and Evaluation of Students

Following the initial filing of the school's course program, any subsequent changes to the program are subject to the approval of the Minister.

The Department may administer the same tests to private school students as are given to public school students. Based on the results, the Minister may determine if a review of the authorization to operate a private school is necessary.

Provincial grade 12 graduation certificates will be available to the graduates of a private school if the school satisfies the Minister that it offers courses which meet the requirements of the Department of Education, and if the students have obtained the required number of compulsory and elective high school credits.¹⁵⁷

Inspection, Evaluation and Supervision of Schools

The *Guidelines* provide that the Minister has the right to inspect private schools, including materials and classes.¹⁵⁸

Teacher Qualifications

All teachers and administrators employed by a private school must be eligible for the Prince Edward Island teaching certificate.¹⁵⁹

Reports, Statements and Records

Each private school must submit an annual report on enrollment and a monthly report on attendance. Based on the reports, the Minister may determine if a review of the operation is necessary.¹⁶⁰

Funding

Prince Edward Island has a nonsectarian publicly funded education system. Although private schools receive no direct funding, those that follow the provincially approved curriculum receive free textbooks.¹⁶¹

Consumer Protection

There are no consumer protection provisions. However, the posting of a fidelity bond to secure the school's financial obligations has been considered and may be imposed as Department policy in the future in appropriate circumstances.¹⁶²

NOVA SCOTIA

Private schools in Nova Scotia are not governed by the province's general education legislation, the *Education Act*, and they are not subject to the authority, direction or supervision of the Minister of Education.¹⁶³ However, Nova Scotia, like many other provinces, permits private schools to operate as an exemption to compulsory public school attendance if the private schools offer a program that is "equivalent" to that offered by the public schools.¹⁶⁴

Private schools must be incorporated under the *Societies Act* or the *Companies Act* or established by an Act of the Legislature.¹⁶⁵ Currently, there are 26 private schools operating in the province with an estimated total enrollment of 1,850.¹⁶⁶

The Department of Education will conduct inspections of teachers employed by private schools but only for the purposes of determining qualification for a teacher's certificate. Because there is no system of accreditation, private schools are not permitted to grant credits towards the provincial high school leaving certificate.¹⁶⁷

Funding

Nova Scotia has a nonsectarian, publicly funded school system. Private schools are not eligible for public funding, but schools which follow the provincial curriculum receive a grant to purchase approved textbooks.¹⁶⁸

Consumer Protection

There are no provisions protecting consumers from failed private schools.¹⁶⁹ To date the province has not experienced any difficulty with private school closings.¹⁷⁰

NEWFOUNDLAND

Newfoundland has an estimated 250 students attending its two private schools.¹⁷¹ The establishment and operation of these schools are governed to a limited extent by the province's general education statute, the *School Act*.¹⁷² A "private school" is defined as an establishment for the instruction of pupils which is not a public school, a Sunday school, or a school authorized by some other Act of the Legislature.¹⁷³ Newfoundland's public education system consists of both denominational and nondenominational schools.

Written permission from the Minister of Education is required before a private school may begin operating in Newfoundland. The school operator must submit to the Minister:

- (a) the names of persons who will own and operate the proposed school;
- (b) the purpose for which the school is to be established;
- (c) the classes and educational programs to be taught; and such other information as the Minister may require.¹⁷⁴

Curriculum and Evaluation of Students

Ministerial permission to operate a private school depends on, among other things, whether the school's proposed courses of instruction follow the courses prescribed by the Minister.¹⁷⁵

When a private school is the only school operating in a community, the provisions of the *School Act* and of the *School Attendance Act* which deal with the responsibilities of school boards, parents, principals, teachers and students shall apply to the private school as if it were a public school.¹⁷⁶

There is no evaluation of private elementary school students. However, private secondary students wishing to receive the provincial high school diploma must sit the provincial exams. A shared evaluation system with the schools means that the provincial exams and the schools exams each count for 50% of the student's final mark. Students must achieve a prescribed level in certain subjects to be eligible for the provincial diploma.¹⁷⁷

Inspection, Evaluation and Supervision of Schools

Private schools are subject to inspection by the Department of Education and permission to operate may be revoked or suspended if the Minister concludes standards of attainment at the school are lower than those expected in a public school or if the private school does not comply with the Act.¹⁷⁸

Teacher Qualifications

Private schools may employ only certified teachers.¹⁷⁹

Funding

Private schools do not receive funding from the province. The only exception occurs when transportation to a public school in the community or in a neighbouring community is not possible. In this case, the private school would receive a per-pupil grant equal to that given to public schools.¹⁸⁰

Consumer Protection

There are no statutory protections against financial loss resulting from the premature closing of a private school.

YUKON

In 1990 the Yukon enacted a new *Education Act* which permits the operation of private schools through registration or accreditation.¹⁸¹ A private school is defined as a school, including a school operated by a religious denomination, other than a public school, that offers educational programs during school days to school-age children. Currently, there are three private schools in operation with a total enrollment of 40 students.¹⁸² All of these schools are affiliated with religious groups.¹⁸³

Curriculum and Evaluation of Students

Private schools must be either registered or accredited. For either classification, the Minister must be satisfied that, among other things, the school provides courses of study that meet the goals and objectives established by the guidelines for private schools; agrees to regular evaluation and monitoring; meets all local and territorial health, safety and building standards; and meets standards of student achievement, as measured by achievement testing, comparable to public schools.¹⁸⁴ Only accredited schools may offer credit for senior high school courses.¹⁸⁵ There are no accredited schools at the present time.¹⁸⁶

Inspection, Evaluation and Supervision of Schools

The Minister is authorized to monitor and evaluate all private schools in the territory and may suspend or cancel a school's registration or accreditation if any of the pre-conditions to registration or accreditation are not met.¹⁸⁷

Teacher Qualifications

Accredited schools are required to employ only certified teachers.¹⁸⁸

Funding

The Yukon has a publicly funded education system consisting of public and Roman Catholic schools.¹⁸⁹ Private schools are ineligible for public funding.¹⁹⁰

Consumer Protection

Private school operators must provide written notice to the parents of prospective and enrolled students that the student may not be placed in the same grade level if the student later registers at another school in the Yukon and that unless the school is accredited, it cannot grant credit for senior high school courses.¹⁹¹

NORTHWEST TERRITORIES

Although there are no private schools in the Northwest Territories at the present time, the *Education Act* does make reference to the establishment and operation of private schools.¹⁹² It defines a private school to mean a school other than a public school where instruction in any of the elementary or secondary education programs is provided to ten or more school-age children (six to 15) at any time between 9:00 a.m. and 4:00 p.m. on days other than school holidays.¹⁹³

The legislation stipulates that no private school may operate without prior ministerial authorization. Where authorization is given, the Minister may

- (a) require that the principal of the private school report to the deputy minister on enrolment, staff, courses of study and other matters in respect of the school;
- (b) inspect the school premises, and all books and documents related to the school; and
- (c) inspect work of every teacher to ensure that a satisfactory level of instruction is maintained.¹⁹⁴

Funding

The Northwest Territories has a publicly funded public and separate system of education.¹⁹⁵ The *Education Act* is silent on the issue of funding for private schools.¹⁹⁶

FOOTNOTES

¹ Canada, Statistics Canada, *Elementary - Secondary School Enrollment*, Cat. no. 81-210 Annual (Ottawa: Ministry of Industry, Science and Technology, December 1991), p. 5.

² Ibid., p. 9.

³ Canada, Statistics Canada, *Advance Statistics of Education*, Cat. no. 81-220 Annual (Ottawa: Ministry of Industry, Science and Technology, September 1992), p. 8.

⁴ Ibid., p. 23; and *Elementary - Secondary School Enrollment*, p. 9.

⁵ *Education Act*, R.S.O. 1990, c. E-2, s. 1(1).

⁶ Ibid.

⁷ Ibid., s. 21(2)(a).

⁸ Ontario, Commission on Private Schools in Ontario (Bernard Shapiro, Commissioner), *Report* (Toronto: The Commission, 1985), p. 41.

⁹ *Education Act*, s. 16(5).

¹⁰ Ibid., s. 16(6); and Telephone interview with Foster Hanson, Education Officer - Private Schools, Learning Assessment Branch, Ministry of Education, Toronto, 19 January 1993.

¹¹ Telephone interview with Mr. Hanson.

¹² *Education Act*, s. 16(7).

¹³ Commission on Private Schools in Ontario, *Report*, p. 84.

¹⁴ *Adler v. Ontario* (1992), 9 O.R. (3d), 676 (Ontario Court (General Division)).

¹⁵ *Charter of Rights and Freedoms*, Part I of the *Constitution Act, 1982* (R.S.C. 1985, Appendix II, No. 44), ss. 2 and 15.

¹⁶ *Adler v. Ontario*, p. 702.

¹⁷ Ibid., pp. 703-705.

¹⁸ Lila Sorick, "Teachers left unpaid as school for overseas students folds," *Globe and Mail*, 3 September 1992; and Bill Parish and Jacqueline Francis, "Parents vow to reopen Montessori," *Toronto Sun*, 21 February 1992.

¹⁹ Telephone interview with Ann Patterson, Assistant to the Education Officer - Private Schools, Learning Branch, Ministry of Education, Toronto, 21 January 1993.

²⁰ Telephone interview with Mr. Hanson.

²¹ Telephone interview with Patricia Baynham, Manager, Legislation Unit, Child Care Branch, Ministry of Community and Social Services, Toronto, 6 May 1993.

²² *Independent School Act*, S.B.C. 1989, c. 51.

²³ *Advance Statistics of Education*, p. 23.

²⁴ *Independent School Act*, s. 2.

²⁵ *Ibid.*, s. 1(1).

²⁶ *Ibid.*, s. 13(3).

²⁷ Saskatchewan, Minister's Advisory Board on Independent Schools, *Final Report to the Minister of Education*, vol. 2 (Regina, Saskatchewan: Saskatchewan Education, November 1990), p. 119.

²⁸ *Ibid.*

²⁹ Telephone interview with Jerry Ensing, Director, Independent Schools Branch, Ministry of Education, Victoria, British Columbia, 20 January 1993.

³⁰ Canadian Education Association, *CEA Information Note: The Public Funding of Private Schools in Canada* (Toronto: The Association, February 1992), pp. 20-21.

³¹ *Independent School Act*, Schedule, s. 1.

³² *Ibid.*, ss. 3, 4 and 6.

³³ *Final Report to the Minister of Education*, p. 131.

³⁴ *Ibid.*

³⁵ *Ibid.*, p. 132; and *Independent School Act*, Schedule, ss. 5 and 7.

³⁶ *Independent School Act*, s. 3.

³⁷ *Ibid.*, Schedule, ss. 3, 4 and 6.

³⁸ *Ibid.*, ss. 5 and 7; and *Final Report to the Minister of Education*, p. 137.

³⁹ *Independent School Act*, Schedule, ss. 5, 7.

⁴⁰ *Final Report to the Minister of Education*, p. 128.

⁴¹ *Ibid.*, p. 124.

⁴² *Independent School Regulation*, B.C. Reg. 262/89, s. 4.

⁴³ *Final Report to the Minister of Education*, p. 125.

⁴⁴ *Independent School Act*, Schedule; and B.C. Reg. 262/89.

⁴⁵ *Independent School Act*, s. 12(d); and Schedule, s. 6.

⁴⁶ *Bonding Regulations*, B.C. Reg. 11/68, ss. 7.101 - 7.103.

⁴⁷ *Ibid.*

⁴⁸ *Advance Statistics of Education*, p. 23.

⁴⁹ *School Act*, S.A. 1988, c. S-3.1.

⁵⁰ *Ibid.*, s. 22.

⁵¹ *CEA Information Note*, p. 17.

⁵² *School Act*, s. 25(1).

⁵³ *Final Report to the Minister of Education*, p. 132.

⁵⁴ *Ibid.*

⁵⁵ *School Act*, s. 22(2).

⁵⁶ *Final Report to the Minister of Education*, p. 132.

⁵⁷ *Ibid.*

⁵⁸ *Ibid.*, p. 133.

⁵⁹ *School Act*, s. 26(1).

⁶⁰ *Final Report to the Minister of Education*, p. 137.

⁶¹ Alta. Reg. 39/89, s. 2(1)(e).

⁶² *Final Report to the Minister of Education*, p. 135.

⁶³ Alta. Reg. 39/89, s. 7.

⁶⁴ *Ibid.*, s. 9.

⁶⁵ *Final Report to the Minister of Education*, p. 125.

⁶⁶ Telephone interview with Marshall Dzurko, Assistant Director, Accreditation and Grants, Department of Education, Calgary, Alberta, 20 January 1993.

⁶⁷ Canada, Canadian Education Statistics Council, *A Statistical Portrait of Elementary and Secondary Education in Canada*, Cat. no. CS 2-38/1990 (Ottawa: Ministry of Industry, Science and Technology, August 1990), p. 68.

⁶⁸ *School Act*, s. 22(3).

⁶⁹ Alta. Reg. 39/89, s. 6.

⁷⁰ *Ibid.*, s. 7(2).

⁷¹ Telephone interview with Mr. Dzurko.

⁷² *Education Act*, S.S. 1988, c. E-0.1 and R.R.S. c. E-0.1 Reg. 11.

⁷³ *Advance Statistics of Education*, p. 23.

⁷⁴ *Education Act*, s. 1.

⁷⁵ R.R.S. c. E-0.1 Reg. 11, s. 7(2).

⁷⁶ *Ibid.*, s. 3(1); and *CEA Information Note*, p. 15.

⁷⁷ R.R.S. c. E-0.1 Reg. 11, s. 30.

⁷⁸ Telephone interview with Stan Digout, Director of Independent Schools Branch, Department of Education, Saskatoon, Saskatchewan, 22 January 1993.

⁷⁹ *CEA Information Note*, p. 15.

⁸⁰ *Ibid.*

⁸¹ R.R.S. c. E-0.1 Reg. 11, s. 30.

⁸² Telephone interview with Mr. Digout.

⁸³ R.R.S. c. E-0.1 Reg. 11, s. 32.

⁸⁴ *Ibid.*, ss. 15 and 16.

⁸⁵ *Ibid.*, ss. 10(1) and 12.

⁸⁶ *Ibid.*, ss. 30(1) and 32(1).

⁸⁷ *Ibid.*, ss. 16 and 24.

⁸⁸ *Ibid.*, s. 17(1).

⁸⁹ *CEA Information Note*, p. 15.

⁹⁰ Tim Sale, *The Financing of Elementary and Secondary Education in Canada - Working Paper No. 29* (Ottawa: Economic Council of Canada, 1992), p. 27.

⁹¹ *CEA Information Note*, p. 16.

⁹² R.R.S. c. E-0.1 Reg. 11, s. 27.

⁹³ Telephone interview with Alec Postnikoff, Director of Independent Schools Branch, Department of Education, Saskatoon, Saskatchewan, 13 May 1992.

⁹⁴ R.R.S. c. E-0.1 Reg. 11, s. 8(1).

⁹⁵ *Education Administration Act*, R.S.M. 1987, c. E10, s. 1.

⁹⁶ Telephone interview with David Yeo, Administrator, Administration Branch, Department of Education, Winnipeg, Manitoba, 19 May 1993.

⁹⁷ *Advance Statistics of Education*, p. 23.

⁹⁸ Telephone interview with David Yeo, 20 January 1993.

⁹⁹ *Public Schools Act*, R.S.M. 1987, c. P250, s. 60(5); and *CEA Information Note*, p. 12.

¹⁰⁰ Man. Reg. 150/90, ss. 8, 9 and 10.

¹⁰¹ *Final Report to the Minister of Education*, p. 120.

¹⁰² *Ibid.*

¹⁰³ *Ibid.*, p. 133.

¹⁰⁴ *Public Schools Act*, s. 60(5).

¹⁰⁵ *Final Report to the Minister of Education*, p. 133.

¹⁰⁶ *Education Administration Act*, s. 4(1)(r).

¹⁰⁷ *Final Report to the Minister of Education*, p. 136; and Man. Reg. 150/90, s. 6(1).

¹⁰⁸ *Final Report to the Minister of Education*, p. 129.

¹⁰⁹ Man. Reg. 150/90, s. 11.

¹¹⁰ *Ibid.*, s. 5; and *Final Report to the Minister of Education*, p. 136.

¹¹¹ *CEA Information Note*, p. 13.

¹¹² Man. Reg. 150/90, s. 15.

¹¹³ *Ibid.*

- ¹¹⁴ Telephone interview with David Yeo, 19 May 1992.
- ¹¹⁵ *Education Administration Act*, s. 3(1)(e).
- ¹¹⁶ *Elementary - Secondary School Enrollment*, p. 9.
- ¹¹⁷ *Advance Statistics of Education*, p. 23.
- ¹¹⁸ *Private Education Act*, S.Q. 1968, c. 67.
- ¹¹⁹ *An Act respecting private education*, S.Q. 1992, c. 68.
- ¹²⁰ *Ibid.*, s. 178.
- ¹²¹ *Ibid.*, s. 1.
- ¹²² *Ibid.*, ss. 5 and 104.
- ¹²³ *Ibid.*, s. 10.
- ¹²⁴ *Ibid.*, s. 129.
- ¹²⁵ *Ibid.*, ss. 12, 13, 18 and 119.
- ¹²⁶ *Ibid.*, s. 77.
- ¹²⁷ *Ibid.*, s. 78.
- ¹²⁸ *Ibid.*, s. 25.
- ¹²⁹ *Ibid.*, s. 32.
- ¹³⁰ *Ibid.*, s. 35.
- ¹³¹ *Ibid.*
- ¹³² *Ibid.*, s. 36.
- ¹³³ *Ibid.*, ss. 115 and 118.
- ¹³⁴ *Ibid.*, s. 50.
- ¹³⁵ *Ibid.*, ss. 63, 64 and 65.
- ¹³⁶ *Ibid.*, s. 94.
- ¹³⁷ *Ibid.*, s. 9.
- ¹³⁸ *Ibid.*, s. 25(2).

¹³⁹ Telephone interview with Michel Fouquette, Ministry of Education, Quebec, Quebec, 31 March 1993.

¹⁴⁰ *An Act respecting private education*, s. 84.

¹⁴¹ *Ibid.*, s. 87.

¹⁴² Telephone interview with Michel Fouquette.

¹⁴³ *Ibid.*, ss. 66 - 76 and 93.

¹⁴⁴ *Ibid.*, s. 12(2).

¹⁴⁵ *Ibid.*, s. 119.

¹⁴⁶ *Ibid.*, s. 59.

¹⁴⁷ *Advance Statistics of Education*, p. 23.

¹⁴⁸ *Schools Act*, S.N.B. 1990, c. S-5.1, s. 57.

¹⁴⁹ Telephone interview with Barry Lydon, Director, Program Development and Implementation, Department of Education, Fredericton, New Brunswick, 20 January 1993.

¹⁵⁰ *The Financing of Elementary and Secondary Education in Canada - Working Paper No. 29*, p. 24.

¹⁵¹ Telephone interview with Deanna MacFadden, Assistant to the Assistant Deputy Minister, Department of Education, Fredericton, 15 May 1992.

¹⁵² *Advance Statistics of Education*, p. 23.

¹⁵³ *Schools Act*, R.S.P.E.I. 1988, c. S-2, s. 46.

¹⁵⁴ Prince Edward Island, Department of Education, *Private School Guidelines* (Charlottetown, Prince Edward Island: The Department, May 1989).

¹⁵⁵ Telephone interview with Tom Rich, Chief Director, School Services and Professional Development, Department of Education, Charlottetown, Prince Edward Island, 19 January 1993.

¹⁵⁶ *Private School Guidelines*.

¹⁵⁷ *Ibid.*

¹⁵⁸ *Ibid.*

¹⁵⁹ *Ibid.*

¹⁶⁰ Ibid.

¹⁶¹ *CEA Information Note*, p. 6.

¹⁶² Telephone interview with Mr. Rich, 19 January 1993.

¹⁶³ *Final Report to the Minister of Education*, p. 118.

¹⁶⁴ N.S. Reg. 226/84, s. 63(f).

¹⁶⁵ Ibid., s. 64(1).

¹⁶⁶ *Advance Statistics of Education*, p. 23.

¹⁶⁷ Telephone interview with Peter Lawson, Director, Inspection Services, Department of Education, Halifax, Nova Scotia, 20 January 1993.

¹⁶⁸ *CEA Information Note*, p. 6.

¹⁶⁹ Telephone interview with Brett Woodbury, Registrar of Teacher Certification, Department of Education, Halifax, Nova Scotia, 21 May 1992.

¹⁷⁰ Telephone interview with Peter Lawson.

¹⁷¹ *Advance Statistics of Education*, p. 23.

¹⁷² *School Act*, R.S.Nfld. 1980, c. S-12.

¹⁷³ Ibid., s. 1.

¹⁷⁴ Ibid., s. 66.

¹⁷⁵ Ibid., s. 67.

¹⁷⁶ Ibid., s. 72(1).

¹⁷⁷ Telephone interview with Allen Wright, Program Evaluation and School Improvement Consultant, Program and Systems Evaluation Section, Department of Education, St. John's, Newfoundland, 19 January 1993.

¹⁷⁸ *School Act*, ss. 68 and 69.

¹⁷⁹ Ibid., s. 67.

¹⁸⁰ *CEA Information Note*, p. 5.

¹⁸¹ *Education Act*, S.Y. 1989-90, c. 25, s. 29.

¹⁸² *Advance Statistics of Education*, p. 23.

¹⁸³ Telephone interview with Wally Seipp, Superintendent of Education, Department of Education, Whitehorse, Yukon, 21 January 1993.

¹⁸⁴ *Education Act*, s. 29(2).

¹⁸⁵ Y.T.O.I.C. 1991/72, s. 4(b).

¹⁸⁶ Telephone interview with Wally Seipp.

¹⁸⁷ *Ibid.*, ss. 29(2)(c) and (4).

¹⁸⁸ *Ibid.*, s. 29(2)(b).

¹⁸⁹ *CEA Information Note*, p. 23.

¹⁹⁰ *Education Act*, s. 29(7).

¹⁹¹ Y.T.O.I.C. 1991/72, s. 4.

¹⁹² *Advance Statistics of Education*, p. 23.

¹⁹³ *Education Act*, R.S.N.W.T. 1988, c. E-1, s. 115.

¹⁹⁴ *Ibid.*, s. 116.

¹⁹⁵ *CEA Information Note*, p. 22.

¹⁹⁶ Telephone interview with Brian Menton, Director, School Curriculum Services, Department of Education, Yellowknife, Northwest Territories, 29 January 1993.

COMPARISON OF LEGISLATIVE FEATURES GOVERNING PRIVATE SCHOOLS IN CANADA

	Ontario	British Columbia	Alberta	Saskatchewan	Manitoba	Quebec	Nova Scotia	New Brunswick	Newfoundland	Prince Edward Island	Yukon	Northwest Territories
Number of Private Schools ¹	525	300	180	52	95	300	26	30	2	2	3	0
Student Enrollment ²	72,700	46,000	17,400	3,050	11,500	101,600	1,850	950	250	150	40	0
Enrollment as % of Student Population ³	3.92%	7.27%	3.26%	1.41%	5.26%	7.89%	1.06%	0.64%	0.19%	0.55%	0.68%	0%
Status of Roman Catholic Schools	* part of public system	* private	* part of public system	* part of public system	* private	* part of public system	* private	* private	* part of public system	* private	* part of public system	* part of public system
Legislation Governing Private School Curriculum	* only in relation to the granting of credits for secondary school diploma * must provide "satisfactory" instruction	* accredited schools only (groups 1, 2, 3)	* non-funded ("registered") schools must meet provincial goals of education * funded ("accredited") schools must follow prescribed or approved courses	* 3 of the 4 classes of independent schools must follow provincial curriculum	* funded schools only	* unless otherwise authorized, all private schools offering elementary or secondary level training must offer the provincial curriculum	* no regulation - but subject to standard of providing "efficient" instruction	* subject to approval of Minister - standard is "efficient" instruction	* curriculum must follow prescribed courses	* subject to approval of Minister (Guidelines) - standard is "efficient" instruction	* "registered" and "accredited" schools must comply with prescribed goals and objectives	* must ensure "satisfactory" level of instruction
Student Evaluation	* only in relation to the granting of credits for secondary school diploma	* accredited schools only	* "registered" schools must use testing acceptable to the Minister * "accredited" schools must use testing consistent with provincial standards	* accredited and historical high schools only	* funded schools only	* in accordance with provincial standards	* no regulation	* no regulation	* only in relation to high school diploma	* may administer same tests as given by public schools	* must be comparable to testing in public schools * only accredited schools may offer credit for secondary school diploma	* no regulation
School Inspection	* elementary schools - authorized but rarely undertaken * secondary schools - for schools granting secondary school diploma	* inspections of all schools but evaluations only of accredited schools	* all schools inspected annually * accredited schools also evaluated once every five years	* all independent schools	* all private schools	* all private schools	* no regulation	* no regulation	* private schools subject to inspection	* Minister has right to inspect	* all private schools subject to inspection	* private schools subject to inspection

¹⁸³ Telephone interview with Wally Seipp, Superintendent of Education, Department of Education, Whitehorse, Yukon, 21 January 1993

¹⁸⁴ *Education Act*, s. 29(2)

¹⁸⁵ Y.T.O.I.C. 1991/72, s. 4(b).

¹⁸⁶ Telephone interview with Wally Seipp.

¹⁸⁷ *Ibid.*, ss. 29(2)(c) and (4)

¹⁸⁸ *Ibid.*, s. 29(2)(b).

¹⁸⁹ *CEA Information Note*, p. 23.

¹⁹⁰ *Education Act*, s. 29(7)

¹⁹¹ Y.T.O.I.C. 1991/72, s. 4.

¹⁹² *Advance Statistics of Education*, p. 23.

¹⁹³ *Education Act*, R.S.N.W.T. 1988, c. E-1, s. 115.

¹⁹⁴ *Ibid.*, s. 116.

¹⁹⁵ *CEA Information Note*, p. 22.

¹⁹⁶ Telephone interview with Brian Menton, Director, School Curriculum Services, Department of Education, Yellowknife, Northwest Territories, 29 January 1993.

	Ontario	British Columbia	Alberta	Saskatchewan	Manitoba	Quebec	Nova Scotia	New Brunswick	Newfoundland	Prince Edward Island	Yukon	Northwest Territories
Teacher Qualification	* no regulation	* accredited schools only	* accredited schools must employ certified teachers	* registered schools may employ certified teachers or those with a letter of eligibility * all other independent schools may employ only certified teachers	* funded schools must employ certified teachers or have funding adjusted	* all private schools may employ only licensed teachers	* no regulation	* no regulation	* may employ only certified teachers	* teachers must be eligible for teaching certificate	* accredited schools required to employ certified teachers	* teachers must provide satisfactory level of instruction
School Day & Year	* no regulation	* no, but funding is adjusted accordingly	* accredited schools must comply with curriculum requirements; therefore, minimum instructional hours	* same as for public schools	* no regulations but funding reduced accordingly	* all private schools - to comply with provincial timetables	* no regulation	* no regulation	* no regulation	* no regulation	* no regulation	* same as public schools
Consumer Protection ⁴	* No	* only group 4 schools required to post fidelity bond	* accredited schools must post fidelity bond	* no special financial protections or remedies	* Minister may inquire into the welfare of the public enrolled at a private school	* restrictions governing the educational services contract and advertising * permit schools (non-funded) must post bond	* no provisions	* no provisions	* no provisions	* no provisions	* no provisions	* no provisions
Facilities to Comply with Health & Safety Standards	* nothing in education legislation - municipal bylaws only	* Yes	* Yes	* Yes	* nothing in education legislation - municipal bylaws only	* Yes - although nothing in the education legislation	* required as part of registration as a company or society	* nothing in education legislation - municipal bylaws only	* Yes	* Yes	* Yes	* Yes - although nothing in the education legislation
Provincial/Territorial Funding	* No	* 3 types of independent schools - only 3 are eligible (groups 1, 2, 3)	* accredited schools only	* historical high schools and special needs schools only; nothing to private elementary schools	* qualifying schools only	* accredited schools only	* No	* No	* No	* No	* No	* No

Notes:

1. Canada, Statistics Canada, *Advance Statistics of Education*, Cat. no. 81-220 Annual (Ottawa: Supply & Services Canada, September 1992), p. 23. Figures are estimated for 1992-93.

2. Ibid.

3. Refers principally to protections and remedies against financial loss but may include provisions related to operation of schools.

4. Fax information received from Jim Seidle, Chief, Elementary-Secondary Section, Education, Culture & Tourism Division, Statistics Canada, Ottawa, 18 January 1993.



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